

JUL 08 2016



SAN FRANCISCO

BAYKEEPER®

July 1, 2016

*VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED*

Newby Island Resource Recovery Park
Attn: William Shreeder/ Scott McCourty
1601 Dixon Landing Rd.
Milpitas, CA 95035

International Disposal Corp. of California
Allied Waste North America, LLC
Allied Waste Services of North America, LLC
Browning-Ferris Industries of California, Inc.
Republic Services, Inc.
18500 N. Allied Way
Phoenix, AZ 85054

CT Corporation System
Agent for Service of Process for:
International Disposal Corp. of California
Allied Waste North America, LLC
Allied Waste Services of North America, LLC
Browning-Ferris Industries of California, Inc.
Republic Services, Inc.
818 W. Seventh St., 2nd Floor
Los Angeles, CA 90017

Re: Notice of Violation and Intent to File Suit under the Clean Water Act

Dear Sir or Madam:

I am writing on behalf of San Francisco Baykeeper ("Baykeeper") to give notice that Baykeeper intends to file a civil action against the International Disposal Corp. of California; Allied Waste North America, LLC; Allied Waste Services of North America, LLC; Browning-Ferris Industries of California, Inc.; and Republic Services, Inc. (collectively, "Operators") for violations of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* ("Clean Water Act" or "CWA") at the Newby Island Resource Recovery Park located respectively at 1601 Dixon Landing Road, on the border of Milpitas and San Jose, California ("Newby Island" or the "Facility").

Baykeeper is a non-profit public benefit corporation organized under the laws of California, with its office in Oakland, California. Baykeeper's purpose is to protect and enhance the water quality and natural resources of San Francisco Bay, its tributaries, and other waters in the Bay Area, for the benefit of its ecosystems and communities. Baykeeper has over five thousand members and supporters who use and enjoy San Francisco Bay and other waters for various recreational, educational, and spiritual purposes. Baykeeper's members' use and enjoyment of these waters are negatively affected by the pollution caused by Newby Island's operations.



Pollution hotline: 1-800-KEEP-BAY
www.baykeeper.org

1736 Franklin Street, Suite 80C
Oakland, CA 94612
(510) 735-9700

This letter addresses the Operators' unlawful discharge of pollutants from the Facility via stormwater into Coyote Creek and Lower Penitencia Creek (collectively, "Receiving Waters"), which then empty into San Francisco Bay. Specifically, Baykeeper's investigation of the Facility has uncovered significant, ongoing, and continuous violations of the CWA and the General Industrial Stormwater Permit issued by the State of California (NPDES General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("1997 Permit") and by Order No. 2014-0057-DWQ ("2015 Permit") (collectively, the "Industrial Stormwater Permit").¹

CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), a citizen must give notice of his or her intent to file suit. 33 U.S.C. § 1365(b). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA"), and the State in which the violations occur. As required by section 505(b), this Notice of Violation and Intent to File Suit provides notice to the Operators of the violations that have occurred and which continue to occur at the Facility. After the expiration of sixty (60) days from the date of this Notice of Violation and Intent to File Suit, Baykeeper intends to file suit in federal court against the Operators under CWA section 505(a) for the violations described more fully below.

During the 60-day notice period, Baykeeper is willing to discuss effective remedies for the violations noticed in this letter. We suggest that the Operators contact us within the next twenty (20) days so that these discussions may be completed by the conclusion of the 60-day notice period. Please note that we do not intend to delay the filing of a complaint in federal court, even if discussions are continuing when the notice period ends.

I. THE LOCATION OF THE ALLEGED VIOLATIONS

A. The Facility

Newby Island is divided into four areas. The Newby Island Compost Facility ("NICF"), located on the west end of the Facility, processes green and wood waste. The Newby Island Landfill ("NILF") is a solid waste facility in operation since 1932 and covering 342 acres. The NILF accepts grit, screenings, wastewater treatment sludge, contaminated soils, clean soils, and municipal solid waste. The Newby Island Recyclery is a material recovery facility, located in the southeast corner of the Facility. Finally, a vehicle parking area and fueling station is located in the northwest area of the material recovery facility. This area also includes a bin storage area, metal storage, and bin maintenance and wash area. Potential pollutants from the Facility include pH, total suspended solids ("TSS"), chemical oxygen demand, oil and grease, heavy metals, litter

¹ On April 1, 2014, the State Water Resources Control Board adopted the 2015 Permit. As of July 1, 2015, the 2015 Permit superseded the 1997 Permit except for the purpose of enforcing violations of the 1997 Permit. 2015 Permit, Section I.A. (Finding 6).

and other pollutants. Stormwater from the Facility discharges directly to the Receiving Waters, which then discharge to San Francisco Bay after a short distance.

B. The Affected Water

Coyote Creek is a water of the United States. It is the predominant drainage in the eastern portions of San Jose and is an important ecological resource in the Santa Clara Valley. Historically, Coyote Creek supported numerous fish populations, including steelhead, Coho salmon, and Chinook salmon. Steelhead and Chinook salmon still use Coyote Creek for spawning and early development life stages. Coyote Creek is also important habitat for numerous aquatic and riparian plants and animals in the region.

Lower Penitencia Creek is a water of the United States. The Lower Penitencia Creek Watershed is approximately 30 square miles and is within the larger Coyote Creek watershed. It flows through Milpitas and San Jose. It confluences with Coyote Creek before flowing into San Francisco Bay.

San Francisco Bay is a water of the United States. The Bay is an ecologically-sensitive waterbody and a defining feature of Northern California. San Francisco Bay is an important and heavily-used resource, with special aesthetic and recreational significance for people living in the surrounding communities. However, the Bay's water quality is impaired and continues to decline. The Bay's once-abundant and varied fisheries have been drastically diminished by pollution, and much of the wildlife habitat of the Bay has been degraded.

The CWA requires that water bodies such as San Francisco Bay meet water quality objectives that protect specific "beneficial uses." The beneficial uses of San Francisco Bay and its tributaries include commercial and sport fishing, estuarine habitat, fish migration, navigation, preservation of rare and endangered species, water contact and non-contact recreation, shellfish harvesting, fish spawning, and wildlife habitat. Contaminated stormwater from the Facility adversely affects the water quality of the San Francisco Bay watershed and threatens the beneficial uses and ecosystem of this watershed, which includes habitat for threatened and endangered species.

II. THE FACILITY'S VIOLATIONS OF THE CLEAN WATER ACT

It is unlawful to discharge pollutants to waters of the United States, such as San Francisco Bay and its tributaries, without an NPDES permit or in violation of the terms and conditions of an NPDES permit. CWA § 301(a), 33 U.S.C. § 1311(a); *see also* CWA § 402(p), 33 U.S.C. § 1342(p) (requiring NPDES permit issuance for the discharge of stormwater associated with industrial activities). The Industrial Stormwater Permit authorizes certain discharges of stormwater, conditioned on compliance with its terms.

On or around April 27, 1992, the Operators submitted their original Notice of Intent ("NOI") to be authorized to discharge stormwater from the Facility under the Industrial Stormwater Permit. On or around June 26, 2015, the Operators submitted an

NOI to be authorized to discharge stormwater from the Facility under the 2015 Permit.² However, information available to Baykeeper indicates that stormwater discharges from the Facility have violated several terms of the Industrial Stormwater Permit and the CWA. Apart from discharges that comply with the Industrial Stormwater Permit, the Facility lacks NPDES permit authorization for any other discharges of pollutants into waters of the United States.

A. Discharges in Excess of Technology Based Effluent Limitations

The Industrial Stormwater Permit includes technology-based effluent limitations, which prohibit the discharge of pollutants from the Facility in concentrations above the level commensurate with the application of best available technology economically achievable (“BAT”) for toxic pollutants³ and best conventional pollutant control technology (“BCT”) for conventional pollutants.⁴ 1997 Permit, Order Part B.3.; 2015 Permit, Section X.H. EPA has published Benchmark values set at the maximum pollutant concentration levels present if an industrial facility is employing BAT and BCT, as listed in Attachment 1 to this letter.⁵ The 2015 Permit incorporates these Benchmark values as “Numeric Action Levels.” 2015 Permit, Section I.M. (Finding 62).

The Facility’s self-reported exceedances of Benchmark values over the last five (5) years, identified in Attachment 2 to this letter, indicate that the Operators have failed and are failing to employ measures that constitute BAT and BCT in violation of the requirements of the Industrial Stormwater Permit. Baykeeper alleges and notifies the Operators that their stormwater discharges from the Facility have consistently contained and continue to contain levels of pollutants that exceed Benchmark values for TSS, chemical oxygen demand, magnesium, selenium, nitrate+nitrite (N+N), iron, and aluminum.

The Facility’s ongoing discharges of stormwater containing levels of pollutants above EPA Benchmark values and BAT- and BCT-based levels of control also demonstrate that the Operators have not developed and implemented sufficient Best Management Practices (“BMPs”) at the Facility. Proper BMPs could include, but are not limited to, moving certain pollution-generating activities under cover or indoors,

² The June 26, 2015 NOI lists Allied Waste of North America, LLC as the operator. According to the California Secretary of State website, no corporate entity with that name exists.

³ BAT is defined at 40 C.F.R. § 125.3 and made applicable to RCRA Subtitle D non-hazardous waste landfills at 40 C.F.R. § 445.23. Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

⁴ BCT is defined at 40 C.F.R. § 125.3 and made applicable RCRA Subtitle D non-hazardous waste landfills at 40 C.F.R. § 445.22. Conventional pollutants are listed at 40 C.F.R. § 401.16 and include BOD, TSS, oil and grease, pH, and fecal coliform.

⁵ The Benchmark values are part of EPA’s Multi-Sector General Permit (“MSGP”) and can be found at: <http://water.epa.gov/polwaste/npdes/stormwater/EPA-Multi-Sector-General-Permit-MSGP.cfm>. The most recent sector-specific Benchmarks can be found at: http://water.epa.gov/polwaste/npdes/stormwater/upload/msgp2015_part8.pdf (“2015 MSGP”). SIC Code 5093 is covered under Sector N in the 2015 MSGP.

capturing and effectively filtering or otherwise treating all stormwater prior to discharge, frequent sweeping to reduce the build-up of pollutants on-site, installing filters in downspouts and storm drains, and other similar measures.

The Operators' failure to develop and/or implement adequate pollution controls to meet BAT and BCT at the Facility violates and will continue to violate the CWA and the Industrial Stormwater Permit each and every day the Facility discharges stormwater without meeting BAT and BCT. Baykeeper alleges that the Operators have discharged stormwater containing excessive levels of pollutants from the Facility to Receiving Waters during at least every significant local rain event over 0.1 inches in the last five (5) years.⁶ Attachment 3 compiles all dates in the last five (5) years when a significant rain event occurred. The Operators are subject to civil penalties for each violation of the Industrial Stormwater Permit and the CWA within the past five (5) years.

B. Discharges in Excess of Receiving Water Limitations

In addition to employing technology based effluent limitations, the Industrial Stormwater Permit requires dischargers to comply with Receiving Water Limitations. 1997 Permit, Order Part C; 2015 Permit, Section VI. The Receiving Water Limitations prohibit discharges that cause or contribute to an exceedance of applicable water quality standards ("WQS"). 1997 Permit, Order Part C.2.; 2015 Permit, Section VI.A. Applicable WQS are set forth in the California Toxics Rule ("CTR")⁷ and Chapter 3 of the San Francisco Bay Basin (Region 2) Water Quality Control Plan ("Basin Plan").⁸ See Attachment 1. Exceedances of WQS are violations of the Industrial Stormwater Permit, the CTR, and the Basin Plan.

The Basin Plan establishes WQS for San Francisco Bay and its tributaries, including but not limited to the following:

- Waters shall not contain substances in concentrations that result in the deposition of material that cause nuisance or adversely affect beneficial uses.
- Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.
- Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases from normal background light penetration or turbidity relatable to waste discharge shall not be greater than 10 percent in areas where natural turbidity is greater than 50 NTU.

⁶ Significant local rain events are reflected in the rain gauge data available at: <http://www.ncdc.noaa.gov/cdo-web/search>.

⁷ The CTR is set forth at 40 C.F.R. § 131.38 and is explained in the Federal Register preamble accompanying the CTR promulgation set forth at 65 Fed. Reg. 31,682 (May 18, 2000).

⁸ The Basin Plan is published by the San Francisco Bay Regional Water Quality Control Board at: http://www.wate:rboards.ca.gov/sanfranciscobay/basin_planning.shtml#2004basinplan.

- All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms.
- Surface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use. The Basin Plan, Table 3-4, identifies specific freshwater water quality objectives for toxic pollutants.⁹

Coyote Creek and South San Francisco Bay currently exceed water quality standards for certain pollutants, and have been listed on California's list of impaired waters ("303(d) list"). *See* CWA § 303(d), 33 U.S.C. § 1313(d).¹⁰ Of the pollutants that are likely to be discharged from the Facility, Coyote Creek is impaired for trash, and South San Francisco Bay is impaired for trash and selenium.

The Industrial Stormwater Permit includes additional Receiving Water Limitations that prohibit stormwater discharges that cause or threaten to cause pollution, contamination, or nuisance. *See* 1997 Permit, Order Part A.2.; 2015 Permit, Sections III.C., VI.C. The Receiving Water Limitations also prohibit stormwater discharges to surface or groundwater that adversely impact human health or the environment. 1997 Permit, Order Part C.1.; 2015 Permit, Section VI.B.

Baykeeper alleges that the Facility's stormwater discharges have caused or contributed to exceedances of the Receiving Water Limitations in the Industrial Stormwater Permit and applicable WQS. These allegations are based on the Facility's self-reported data submitted to the San Francisco Bay Regional Water Quality Control Board. The sampling results indicate that the Facility's discharges are causing or threatening to cause pollution, contamination, and/or nuisance; adversely impact human health or the environment; and violate applicable WQS. For example, the Facility's sampling results indicate exceedances of numeric WQS for selenium. *See* Attachment 2.

Baykeeper alleges that each day that the Facility has discharged stormwater from the Facility, the Facility's stormwater has contained levels of pollutants that exceeded one or more of the Receiving Water Limitations. Baykeeper alleges that the Operators have discharged stormwater exceeding Receiving Water Limitations from the Facility to San Francisco Bay during at least every significant local rain event over 0.1 inches in the last five (5) years. *See* Attachment 3. Each discharge from the Facility that violates a Receiving Water Limitation constitutes a separate violation of the Industrial Stormwater Permit and the CWA. The Operators are subject to penalties for each violation of the Industrial Stormwater Permit and the CWA within the last five (5) years.

⁹ Basin Plan, Table 3-4 is available at:
http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/basinplan/web/docs/bp_ch3+tables.pdf

¹⁰ California's 303(d) list is available at:
http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml

C. Failure to Develop and Implement an Adequate Storm Water Pollution Prevention Plan

The Industrial Stormwater Permit requires dischargers to develop and implement an adequate Storm Water Pollution Prevention Plan ("SWPPP"). 1997 Permit, Section A.1.a. and Order Part E.2.; 2015 Permit, Sections I.I. (Finding 54), X.B. The Industrial Stormwater Permit also requires dischargers to make all necessary revisions to existing SWPPPs promptly. 1997 Permit, Order Part E.2.; 2015 Permit, Section X.B.

The SWPPP must include, among other requirements, the following: a site map, a list of significant materials handled and stored at the site, a description and assessment of all potential pollutant sources, a description of the BMPs that will reduce or prevent pollutants in stormwater discharges, and specifications of BMPs designed to reduce pollutant discharge to BAT and BCT levels. 1997 Permit, Sections A.1-A.10.; 2015 Permit, Section X. Moreover, the Industrial Stormwater Permit requires dischargers to evaluate and revise SWPPPs to ensure they meet these minimum requirements, in particular that the necessary BMPs are in place and being implemented. *See* 1997 Permit, Section A.9. (requiring a comprehensive site compliance evaluation completed each reporting year, and revisions to the SWPPP implemented within 90 days after the evaluation); 2015 Permit, Section X.D.2.a. (obligating the discharger to "ensure its SWPPP is developed, implemented and revised as necessary to be consistent with any applicable municipal, state, and federal requirements that pertain to the requirements in [the 2015 Permit].").

Based on information available to Baykeeper, the Operators have failed to prepare and/or implement an adequate SWPPP and/or to revise the SWPPP to satisfy each of the requirements of the Industrial Stormwater Permit. For example, the Operators' past or current SWPPP has not/does not include and/or the Operators have not implemented adequate BMPs designed to reduce pollutant levels in discharges to BAT and BCT levels in accordance with the Industrial Stormwater Permit, as evidenced by the data in Attachment 2.

Accordingly, the Operators have violated the CWA each and every day that they have failed to develop and/or implement an adequate SWPPP meeting all of the requirements of the Industrial Stormwater Permit, and the Operators will continue to be in violation every day until they develop and implement an adequate SWPPP. The Operators are subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring within the past five (5) years.

D. Failure to Properly Sample Stormwater Discharges

The Operators are also in violation of the Industrial Stormwater Permit for failing to sample stormwater for all required parameters. Specifically, the Operators shall analyze all collected samples for all parameters required by Code of Federal Regulations, Title 40, Chapter I, Subchapter N ("Subchapter N"). 1997 Permit, Section B.6; 2015 Permit, Section XI.B.6.g. As a Resource Conservation and Recovery Act ("RCRA")

Subtitle D non-hazardous waste landfill, the Facility is subject to Subchapter N requirements. *See* 40 C.F.R. § 445.21; *see also* Facility SWPPP, § XI.B.6. Pursuant to these requirements, the Facility must analyze its stormwater samples for Ammonia (as N). In the last five (5) years, the Facility has failed to meet this requirement.

As a result of the Operators' failure to properly sample stormwater discharges from the Facility, the Operators have been in daily and continuous violation of the Industrial Stormwater Permit and the CWA each and every day for the past five (5) years. These violations are ongoing. The Operators will continue to be in violation of the sampling requirements each day that the Operators fail to adequately develop and/or implement an effective sampling program at the Facility. The Operators are subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring for the last five (5) years.

E. Unpermitted Discharges

Section 301(a) of the CWA prohibits the discharge of any pollutant into waters of the United States unless the discharge is authorized by a NPDES permit issued pursuant to section 402 of the CWA. *See* 33 U.S.C. §§ 1311(a), 1342. The Operators sought coverage for the Facility under the Industrial Stormwater Permit, which states that any discharge from an industrial facility not in compliance with the Industrial Stormwater Permit "must be either eliminated or permitted by a separate NPDES permit." 1997 Permit, Order Part A.I.; *see also* 2015 Permit, Sections I.A. (Finding 8) and I.C. (Finding 28).

Because the Operators have not obtained coverage under a separate NPDES permit and have failed to eliminate discharges not permitted by the Industrial Stormwater Permit, each and every discharge from the Facility described herein not in compliance with the Industrial Stormwater Permit has constituted and will continue to constitute a discharge without CWA permit coverage in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a). The Operators are subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring for the last five (5) years.

IV. PERSONS RESPONSIBLE FOR THE VIOLATIONS.

The International Disposal Corp. of California; Allied Waste North America, LLC; Allied Waste Services of North America, LLC; Browning-Ferris Industries of California, Inc.; and Republic Services, Inc. are the persons responsible for the violations at the Facility described above.

V. NAME AND ADDRESS OF NOTICING PARTY

San Francisco Baykeeper, Inc.
1736 Franklin Street, Suite 800
Oakland, CA 94612
(510) 735-9700

VI. COUNSEL

Baykeeper is represented by the following counsel in this matter, to whom all communications should be directed:

Erica Maharg, Staff Attorney
San Francisco Baykeeper
1736 Franklin Street, Suite 800
Oakland, CA 94612
(510) 735-9700

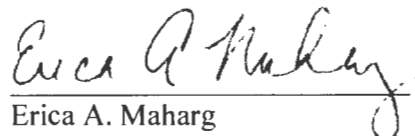
Erica Maharg: (510) 735-9700 x106, erica@baykeeper.org

VII. REMEDIES.

Baykeeper intends, at the close of the 60-day notice period or thereafter, to file a citizen suit under CWA section 505(a) against the Operators for the above-referenced violations. Baykeeper will seek declaratory and injunctive relief to prevent further CWA violations pursuant to CWA sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. In addition, Baykeeper will seek civil penalties pursuant to CWA section 309(d), 33 U.S.C. § 1319(d), and 40 C.F.R. § 19.4, against the Operators in this action. The CWA imposes civil penalty liability of up to \$37,500 per day per violation for violations occurring after January 12, 2009. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4. Baykeeper will seek to recover attorneys' fees, experts' fees, and costs in accordance with CWA section 505(d), 33 U.S.C. § 1365(d).

As noted above, Baykeeper is willing to meet with you during the 60-day notice period to discuss effective remedies for the violations noted in this letter. Please contact me to initiate these discussions.

Sincerely,



Erica A. Maharg
Staff Attorney
San Francisco Baykeeper

Notice of Intent to File Suit
July 1, 2016
Page 10 of 10

Cc:

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
Mail Code: 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Alexis Strauss, Acting Reg. Administrator
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Bruce Wolfe, Executive Officer
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Thomas Howard, Executive Director
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Attachment 1: Benchmarks and Water Quality Standards for Discharges to Freshwater

A. Benchmarks Applicable to Newby Island Resource Recovery Park

Parameter	Units	Benchmark Value	Source(s)
pH	SU	6.0 – 9.0	2015 MSGP ¹ IGP ² ELG ³
Total Suspended Solids	mg/L	88	ELG
Chemical Oxygen Demand	mg/L	120	2015 MSGP IGP ELG
Oil and Grease	mg/L	15	IGP
Aluminum Total	mg/L	0.75	IGP
Iron Total	mg/L	1.0	IGP
Lead Total	mg/L	0.095	2015 MSGP* IGP
Zinc Total	mg/L	0.13	2015 MSGP* IGP
Ammonia as Nitrogen	mg/L	2.14	2015 MSGP IGP
Nitrate + Nitrite as Nitrogen	mg/L	0.68	IGP
Alpha-Terpineol	mg/L	0.033	ELG

¹“2015 MSGP” refers to the United States Environmental Protection Agency National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit For Stormwater Discharges Associated With Industrial Activity, effective June 4, 2015.

² “IGP” refers to the National Pollutant Discharge Elimination System General Permit No. CAS000001 [State Water Resources Control Board], Water Quality Order No. 2014-57-DWQ.

³ “ELG” refers to the effluent limitations in 40 C.F.R. Chapter 1 Part 445 Subpart B.

Benzoic Acid	mg/L	0.12	ELG
p-Cresol	mg/L	0.025	ELG
Phenol	mg/L	0.026	ELG
Arsenic	mg/L	0.15	2015 MSGP
Magnesium	mg/L	0.064	2015 MSGP IGP
Mercury	mg/L	0.0014	2015 MSGP IGP
Selenium	mg/L	0.005	2015 MSGP IGP
Biochemical Oxygen Demand (BOD)	mg/L	30	IGP ELG
Cyanide	mg/L	0.022 mg/L	2015 MSGP

* Assuming a water hardness range of 100-125 mg/L

B. Water Quality Standards (Basin Plan, Table 3-4)

Parameter	Units	WQS Value
pH	SU	6.5 – 8.5
Lead	mg/L	0.065
Arsenic	mg/L	0.340
Zinc	mg/L	0.12
Cyanide	mg/L	0.022
Mercury	mg/L	0.0024
Selenium	mg/L	0.020

Attachment 2: Table of Exceedances for Newby Island Resource Recovery Park

Table containing each stormwater sampling result which exceeds EPA Benchmarks and/or causes or contributes to an exceedance of Basin Plan Water Quality Standards. The EPA Benchmarks and Basin Plan Water Quality Standards are listed in Attachment 1. All stormwater samples were reported by the Facility during the past five (5) years.

Reporting Period	Sample Date	Sampling Point	Parameter	Result	Units
2011-2012	2/29/2012	LC-2A	Iron Total	5.1	mg/L
2011-2012	2/29/2012	LC-4A	Iron Total	6.3	mg/L
2011-2012	2/29/2012	LC-4A	Total Suspended Solids (TSS)	120	mg/L
2012-2013	11/30/2012	LC-13	Iron Total	2.3	mg/L
2012-2013	11/30/2012	LC-14	Iron Total	9.5	mg/L
2012-2013	11/30/2012	LC-2A	Iron Total	260	mg/L
2012-2013	11/30/2012	LC-2A	Total Suspended Solids (TSS)	8800	mg/L
2012-2013	1/24/2013	LC-14	Iron Total	6.4	mg/L
2012-2013	1/24/2013	LC-14	Total Suspended Solids (TSS)	540	mg/L
2012-2013	1/24/2013	LC-1A	Total Suspended Solids (TSS)	300	mg/L
2012-2013	1/24/2013	LC-2A	Iron Total	1.2	mg/L
2012-2013	1/24/2013	LC-2A	Total Suspended Solids (TSS)	160	mg/L
2012-2013	1/24/2013	LC-4	Iron Total	11	mg/L
2012-2013	1/24/2013	LC-4	Total Suspended Solids (TSS)	110	mg/L
2012-2013	1/24/2013	LC-6	Iron Total	3	mg/L
2012-2013	1/24/2013	LC-6	Total Suspended Solids (TSS)	230	mg/L
2012-2013	1/24/2013	LC-7	Iron Total	8.3	mg/L
2012-2013	1/24/2013	LC-7	Total Suspended Solids (TSS)	800	mg/L
2012-2013	1/24/2013	LC-8	Iron Total	8.5	mg/L
2012-2013	1/24/2013	LC-8	Total Suspended Solids (TSS)	3000	mg/L
2013-2014	11/20/2013	LC-12	Iron Total	39	mg/L
2013-2014	11/20/2013	LC-12	Total Suspended Solids (TSS)	1400	mg/L
2013-2014	11/20/2013	LC-13	Iron Total	62	mg/L
2013-2014	11/20/2013	LC-13	Total Suspended Solids (TSS)	2200	mg/L
2013-2014	11/20/2013	LC-3A	Iron Total	610	mg/L
2013-2014	11/20/2013	LC-3A	Total Suspended Solids (TSS)	19000	mg/L
2013-2014	2/6/2014	LC-1A	Iron Total	9.5	mg/L
2013-2014	2/6/2014	LC-1A	Total Suspended Solids (TSS)	930	mg/L
2013-2014	2/6/2014	LC-2A	Iron Total	4.2	mg/L
2013-2014	2/6/2014	LC-3A	Iron Total	2.7	mg/L
2013-2014	2/6/2014	LC-4	Iron Total	12	mg/L
2013-2014	2/6/2014	LC-4	Total Suspended Solids (TSS)	160	mg/L
2013-2014	2/6/2014	LC-6	Iron Total	3.1	mg/L
2013-2014	2/6/2014	LC-6	Total Suspended Solids (TSS)	110	mg/L

2013-2014	2/6/2014	LC-7	Iron Total	2.5	mg/L
2014-2015	12/11/2014	LC-2A	Iron Total	140	mg/L
2014-2015	12/11/2014	LC-2A	Total Suspended Solids (TSS)	2800	mg/L
2014-2015	12/11/2014	LC-3	Iron Total	3.7	mg/L
2014-2015	12/11/2014	LC-3A	Iron Total	10	mg/L
2014-2015	12/11/2014	LC-3A	Total Suspended Solids (TSS)	390	mg/L
2014-2015	12/11/2014	LC-4	Iron Total	9.5	mg/L
2014-2015	12/11/2014	LC-4	Total Suspended Solids (TSS)	200	mg/L
2014-2015	12/11/2014	LC-6	Iron Total	12	mg/L
2014-2015	12/11/2014	LC-6	Total Suspended Solids (TSS)	420	mg/L
2014-2015	12/11/2014	LC-7	Iron Total	13	mg/L
2014-2015	12/11/2014	LC-7	Total Suspended Solids (TSS)	260	mg/L
2014-2015	12/11/2014	LC-9	Iron Total	12	mg/L
2014-2015	12/11/2014	LC-9	Total Suspended Solids (TSS)	270	mg/L
2014-2015	2/7/2015	LC-13	Iron Total	1.7	mg/L
2014-2015	2/7/2015	LC-2A	Iron Total	2.4	mg/L
2014-2015	2/7/2015	LC-2A	Total Suspended Solids (TSS)	110	mg/L
2014-2015	2/7/2015	LC-3A	Iron Total	1.5	mg/L
2014-2015	2/7/2015	LC-4	Iron Total	1.5	mg/L
2014-2015	2/7/2015	LC-4A	Iron Total	7.6	mg/L
2014-2015	2/7/2015	LC-4A	Total Suspended Solids (TSS)	330	mg/L
2014-2015	2/7/2015	LC-7	Iron Total	2.6	mg/L
2014-2015	2/7/2015	LC-7	Total Suspended Solids (TSS)	200	mg/L
2014-2015	2/7/2015	LC-8	Iron Total	1.5	mg/L
2014-2015	2/7/2015	LC-8	Total Suspended Solids (TSS)	120	mg/L
2015-2016	12/3/2015	LC-4	Chemical Oxygen Demand	200	mg/L
2015-2016	12/3/2015	LC-4	Magnesium Total	94	mg/L
2015-2016	12/3/2015	LC-4	Nitrate/nitrite as N	2.4	mg/L
2015-2016	12/3/2015	LC-4	Selenium Total	0.017	mg/L
2015-2016	12/3/2015	SW-1	Chemical Oxygen Demand	330	mg/L
2015-2016	12/3/2015	SW-1	Iron Total	1.8	mg/L
2015-2016	12/3/2015	SW-1	Magnesium Total	720	mg/L
2015-2016	12/3/2015	SW-1	Selenium Total	0.037	mg/L
2015-2016	12/10/2015	LC-1	Chemical Oxygen Demand	440	mg/L
2015-2016	12/10/2015	LC-1	Magnesium Total	240	mg/L
2015-2016	12/10/2015	LC-1	Nitrate/nitrite as N	9.1	mg/L
2015-2016	12/10/2015	LC-1	Selenium Total	0.022	mg/L
2015-2016	12/10/2015	LC-13	Aluminum Total	1.6	mg/L
2015-2016	12/10/2015	LC-13	Chemical Oxygen Demand	150	mg/L
2015-2016	12/10/2015	LC-13	Iron Total	2.8	mg/L
2015-2016	12/10/2015	LC-13	Magnesium Total	83	mg/L
2015-2016	12/10/2015	LC-13	Selenium Total	0.012	mg/L
2015-2016	12/10/2015	LC-4	Aluminum Total	1.6	mg/L
2015-2016	12/10/2015	LC-4	Iron Total	2.8	mg/L

2015-2016	12/10/2015	LC-4	Magnesium Total	29	mg/L
2015-2016	12/10/2015	LC-4	Nitrate/nitrite as N	1.3	mg/L
2015-2016	12/10/2015	LC-7	Aluminum Total	18	mg/L
2015-2016	12/10/2015	LC-7	Chemical Oxygen Demand	230	mg/L
2015-2016	12/10/2015	LC-7	Iron Total	37	mg/L
2015-2016	12/10/2015	LC-7	Magnesium Total	120	mg/L
2015-2016	12/10/2015	LC-7	Nitrate/nitrite as N	7.1	mg/L
2015-2016	12/10/2015	LC-7	Selenium Total	0.016	mg/L
2015-2016	12/10/2015	LC-7	Total Suspended Solids (TSS)	580	mg/L
2015-2016	12/10/2015	S-1	Aluminum Total	1.1	mg/L
2015-2016	12/10/2015	S-1	Chemical Oxygen Demand	360	mg/L
2015-2016	12/10/2015	S-1	Iron Total	3.2	mg/L
2015-2016	12/10/2015	S-1	Magnesium Total	600	mg/L
2015-2016	12/10/2015	S-1	Selenium Total	0.029	mg/L
2015-2016	3/5/2016	LC-1	Chemical Oxygen Demand	370	mg/L
2015-2016	3/5/2016	LC-1	Magnesium Total	290	mg/L
2015-2016	3/5/2016	LC-1	Nitrate/nitrite as N	7.7	mg/L
2015-2016	3/5/2016	LC-1	Selenium Total	0.02	mg/L
2015-2016	3/5/2016	LC-4	Aluminum Total	1.1	mg/L
2015-2016	3/5/2016	LC-4	Chemical Oxygen Demand	340	mg/L
2015-2016	3/5/2016	LC-4	Iron Total	1.5	mg/L
2015-2016	3/5/2016	LC-4	Magnesium Total	230	mg/L
2015-2016	3/5/2016	LC-4	Nitrate/nitrite as N	0.92	mg/L
2015-2016	3/5/2016	LC-4	Selenium Total	0.032	mg/L
2015-2016	3/5/2016	LC-6	Aluminum Total	15	mg/L
2015-2016	3/5/2016	LC-6	Chemical Oxygen Demand	350	mg/L
2015-2016	3/5/2016	LC-6	Iron Total	22	mg/L
2015-2016	3/5/2016	LC-6	Magnesium Total	210	mg/L
2015-2016	3/5/2016	LC-6	Nitrate/nitrite as N	12	mg/L
2015-2016	3/5/2016	LC-6	Selenium Total	0.04	mg/L
2015-2016	3/5/2016	LC-6	Total Suspended Solids (TSS)	420	mg/L
2015-2016	3/5/2016	LC-7	Aluminum Total	32	mg/L
2015-2016	3/5/2016	LC-7	Chemical Oxygen Demand	440	mg/L
2015-2016	3/5/2016	LC-7	Iron Total	47	mg/L
2015-2016	3/5/2016	LC-7	Magnesium Total	250	mg/L
2015-2016	3/5/2016	LC-7	Nitrate/nitrite as N	16	mg/L
2015-2016	3/5/2016	LC-7	Selenium Total	0.035	mg/L
2015-2016	3/5/2016	LC-7	Total Suspended Solids (TSS)	1000	mg/L

**Attachment 3: Alleged Dates of Exceedances by
Newby Island Resource Recovery Park
July 1, 2011 to June 30, 2016**

Days with precipitation one-tenth of an inch or greater, as reported by NOAA's National Climatic Data Center; San Jose, CA station, GHCND:USW00023293, when a stormwater discharge from the Facility is likely to have occurred. <http://www.ncdc.noaa.gov/cdo-web/search>

2011	2012	2013	2014	2015	2016
10/3	1/20	1/6	1/30	2/6	1/5
10/4	1/21	1/24	2/6	2/8	1/6
10/5	1/23	2/19	2/7	3/11	1/15
10/6	2/13	3/7	2/26	4/6	1/16
11/4	2/29	4/4	2/28	4/7	1/17
11/5	3/16	9/21	3/1	4/25	1/18
11/19	3/24	11/19	3/3	5/14	1/19
11/20	3/25	11/20	3/29	6/10	1/22
	3/27		3/31	11/2	1/31
	3/31		4/1	11/15	1/17
	4/10		4/25	11/25	1/18
	4/12		9/25	12/3	2/17
	4/13		10/25	12/10	2/18
	4/25		10/31	12/11	3/4
	6/4		11/13	12/13	3/5
	10/22		11/20	12/18	3/6
	11/1		11/29	12/19	3/7
	11/17		11/30	12/21	3/11
	11/18		12/2	12/22	3/13
	11/21		12/3	12/24	3/21
	11/28		12/11	12/28	4/8
	11/29		12/12		4/9
	11/30		12/15		4/10
	12/2		12/16		4/22
	12/5		12/17		5/6
	12/12		12/19		5/21
	12/15				
	12/17				
	12/22				
	12/23				
	12/25				
	12/26				
	12/29				